

Restriction Requirement

In response to the Restriction Requirement issued in the pending application, Applicants elect the species represented by claim 34 with traverse. Reconsideration of the claims and withdrawal of the instant Restriction is respectfully requested.

Applicants respectfully submit that the Examiner has issued an improper restriction/election requirement. As stated in MPEP § 803, "Examiners must provide reasons and/or examples to support conclusions..." (page 800-4). In the present Office Action, the Examiner fails to make any statements whatsoever of the reasoning behind the restriction requirement. The Examiner merely states that claims 33 and 34 are "patentably distinct." If only for this reason, Applicants submit that the restriction requirement is improper.

Nevertheless, Applicants respectfully submit that the Examiner has failed to show a *prima facie* case of a serious burden in searching for all claims as required by MPEP § 803. As further stated in MPEP § 803, "[A] serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separated classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. Again, the Examiner fails to provide Applicants with any information whatsoever. The Examiner does not state the number of classes that must be searched in order to properly examine the

instant application. Further, the Examiner does not state or imply that searching for all of the claims will create an undue burden for the Examiner. Therefore, the Applicants can only assume that an undue burden for searching does not exist.

In summary, the Examiner effectively allows no rebuttal from Applicants. Thus, Applicants can only respectfully request that the Examiner rejoin all claims of the present invention and examine the claims together in the present application. An early and favorable action on the merits of the present application is earnestly solicited.

If the Examiner has any questions concerning this application, the Examiner is requested to contact Kristi L. Rupert, Ph.D. (Reg. No. 45,702) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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